

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
at CHATTANOOGA

|                                 |   |                         |
|---------------------------------|---|-------------------------|
| KELLY MORGAN VAUGHN,            | ) |                         |
|                                 | ) |                         |
| <i>Plaintiff,</i>               | ) |                         |
|                                 | ) | Case No. 1:20-CV-70     |
| v.                              | ) |                         |
|                                 | ) | Judge Curtis L. Collier |
| HAMILTON COUNTY and CHRISTOPHER | ) |                         |
| BELL,                           | ) |                         |
|                                 | ) |                         |
| <i>Defendants.</i>              | ) |                         |

**MEMORANDUM**

Before the Court is a joint stipulation of the parties to the dismissal with prejudice of Plaintiff's federal claims and the remand of Plaintiff's state claims to state court. (Doc. 48.) The case was removed from the Circuit Court for Hamilton County, Tennessee, on March 12, 2020. (Doc. 1.) The parties have submitted a proposed order of dismissal and remand. (Doc. 48-1.)

Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure allows a plaintiff to "dismiss an action without a court order by filing . . . a stipulation of dismissal signed by all parties who have appeared." Fed. R. Civ. P. 41(a)(1)(A)(ii). Otherwise, "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2). In addition, "[a] request for a court order must be made by motion." Fed. R. Civ. P. 7(b)(1).

The Court of Appeals for the Sixth Circuit has found significance in the use of the word "action" in Rule 41(a)(1)(A), suggesting the Rule allows a plaintiff to dismiss *all* of an action without a court order, but not fewer than all of the parties or fewer than all of the claims in an

action. *Philip Carey Mfg. Co. v. Taylor*, 286 F.2d 782, 785 (6th Cir. 1961); *see also Letherer v. Alger Grp., L.L.C.*, 328 F.3d 262, 266 (6th Cir. 2003) (holding proper mechanism through which to dismiss claims against fewer than all of the parties is Rule 21, not Rule 41), *overruled on other grounds by Blackburn v. Oaktree Cap. Mgmt., LLC*, 511 F.3d 633, 636 (6th Cir. 2008). When dismissal is by court order under Rule 41(a)(2), however, the dismissal of less than all of an action does not appear objectionable. *See, e.g., Banque de Depots v. Nat'l Bank of Detroit*, 491 F.2d 753, 757 (6th Cir. 1974) (affirming district court's dismissal of one defendant under Rule 41(a)).

The Court concludes it is in the interests of justice and judicial economy to construe the parties' joint stipulation as a joint motion for partial dismissal and for remand. The Court will so construe the stipulation and will **GRANT** the parties the relief they seek.

**An appropriate order will enter.**

/s/  
**CURTIS L. COLLIER**  
**UNITED STATES DISTRICT JUDGE**